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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,346	12/07/2000	Robert S. Hoblit	RPS92000097US1	1677
47052	7590	10/27/2005	EXAMINER	
SAWYER LAW GROUP LLP			ZEENDER, FLORIAN M	
PO BOX 51418			ART UNIT	
PALO ALTO, CA 94303			PAPER NUMBER	

3627

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/732,346

Applicant(s)

HOBLET ET AL.

Examiner

F. Ryan Zeender

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,8-39 and 41 is/are pending in the application.
- 4a) Of the above claim(s) 14-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-13 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

Claims 1-6, 8-13, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kagami et al. in view of Brewer et al. and Official Notice.

Kagami et al. disclose or inherently teach the limitations of the claim 1 (see specifically Fig. 2, and Col. 5, lines 6-41); except the reference lacks the specific teaching of the time frame comprising a range of particular times within a particular day, “notifying an interested party” (the reference only teaches giving “advice to modify”; Col. 5, lines 40-41), and adjusting the corresponding time frame for a particular individual item if the estimated sales projection for the particular item does not exceed a minimum criteria.

Brewer et al. teach an inventory control apparatus whereby inventory can monitored over a range of particular times within a particular day (See, for example, Col. 3, lines 35-46).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kagami et al. to have the time frame comprise a range of particular times within a particular day, in view of Brewer et al., in order to “produce a highly flexible system tailoring reports to a users requirements” (See Brewer et al., Col. 3, lines 44-46).

Further, it would have been an obvious design choice to one of ordinary skill in the art at the time of the invention to modify Kagami et al. to notify “an interested party”, of the advice to modify the inventory control system in order to provide a manager with

the necessary information to act on the advice and hence change the system to improve the system's future accuracy.

Further, the Examiner takes Official Notice that it is well known in sales to adjust the corresponding time frame for a particular individual item if the estimated sales projection for the particular individual item does not exceed a minimum criteria. *For example, in real estate, an owner of a property has to have his house sold within two weeks due to a job transfer. The real estate agent has been selling houses in the neighborhood within one month on average (thus, the sales projection for this individual item is one month). Because the estimated sales projection (one every month) does not exceed the minimum criteria set by the owner of two weeks, the real estate agent has to adjust the corresponding time frame for selling the house to two weeks. Of course, in order to sell the house in two weeks, the agent would probably have to increase the demand for the house by either lowering the price or working harder to find more buyers.* Thus, this example describes how it is common in everyday business/sales to adjust the corresponding time frame for a particular individual item if the estimated sales projection for the particular individual item does not exceed a minimum criteria.

Re claims 2-6 and 8-13: The reference lacks the specific teaching of all of the limitations in the claims, however, these added limitations are well known in the art of inventory control and it would have been an obvious design choice at the time of the invention to modify Kagami et al. to include any one of the limitations of claims 2-6 and 8-13 in order to provide certain desired results.

### ***Response to Arguments***

Applicant's arguments filed 8/15/2005 have been fully considered but they are not persuasive.

Applicant argues that Brewer does not teach or suggest the time frame "comprising a range of particular times within a particular day", as recited in claim 1. However, the Examiner disagrees. Brewer specifically teaches that the time span can be "any time span....where the time span may be within the last hour" (Col. 3, lines 37-38). The terminology teaches the limitation of the claim in that "the last hour" includes a range (one hour) of particular times (i.e., between 4pm – 5pm) within a particular day (the present day).

The applicant further argues that Brewer does not specifically describe both particular times and particular days. This argument, however, is not persuasive in that claim 1 only states "particular times within a particular day" (not days). The limitation is taught by Brewer as described in the paragraph above.

However, even if claim 1 stated "days" (plural), it is believed that Brewer obviously or even inherently teaches this limitation because Brewer's "report" (described in Col. 3, lines 35-40) for determining stock removal would be useless if the time span was chosen to be "any time span", but the report didn't tell the user which date. Further, there is evidence of inherency or at least obviousness from Brewer's disclosure in Column 3, lines 31-32 ("time and date"), and Brewer's disclosure in Column 3, lines 15-20 ("when it was issued" and "was issued on a particular date").

Further, applicant has argued in a previous communication that Brewer explicitly **defines** the time span such that “the span may be in the last hour, may be the last day, may be the last week, maybe the last month”. However, the language is not an explicit definition, but rather a list of examples of Brewer’s terminology, “**any time span**”. Column 3, line 40 of Brewer, additionally states that the time frames “**may be any other time span**”. In no way does Brewer teach away from anything, as applicant has argued previously, but rather teaches applicant’s limitation in claim 1 of, “comprising a range of particular times within a particular day”.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (571) 272-6790. The examiner can normally be reached on Monday-Friday, 8am-5pm.

The Examiner's supervisor may be reached at (571) 272-6771.

The receptionist's phone number for the Technology center is (571) 272-3600 and the fax number is (571) 273-8300.

F. Zeender  
Primary Examiner, A.U. 3627  
October 21, 2005

 10/21/05  
**F. RYAN ZEENDER**  
**PRIMARY EXAMINER**